

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MANUEL SHOTWELL,

1:10-cv-01496-LJO-MJS (HC)

Petitioner,

ORDER APPOINTING OFFICE OF
FEDERAL DEFENDER, DIRECTING
COUNSEL TO FILE NOTICE OF
APPEARANCE WITHIN FOURTEEN DAYS,
AND DIRECTING CLERK OF COURT TO
SERVE DOCUMENTS

v.

A. HEDGPETH, Warden,

Respondent.

/

Petitioner is a state prisoner proceeding with a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. He proceeds *pro se*.

Petitioner filed the instant petition on August 19, 2010. (Pet., ECF No. 1.) On October 21, 2010, Petitioner filed a motion to appoint counsel. (Mot. to Appoint Counsel, ECF No. 6.) In his motion, Petitioner states that he filed an earlier Petition for Writ of Habeas Corpus on May 18, 2004. See Shotwell v. Evans, Case No. 1:04-cv-06496-LJO-DLB. Attached as exhibits to the current Motion to Appoint Counsel are documents describing how Petitioner suffers from borderline to mild mental retardation and other cognitive and behavioral disabilities and showing that he had been found not competent to stand trial. (Id.) His previous habeas petition court file includes similar documents and a record of the Court's February 22, 2005, Order granting Petitioner's motion for appointment of counsel. (Id., Ex. F.)

Pursuant to 18 U.S.C. § 3006A(a)(2)(B), the Court may appoint counsel at any stage of a habeas corpus proceeding if the interests of justice so require and Petitioner is

1 financially eligible. Accordingly, inasmuch as counsel was appointed in the earlier case on
2 a showing such as that made here, and good cause appearing, the Court appoints the
3 Office of the Federal Defender to represent Petitioner.

4 IT IS HEREBY ORDERED that:

- 5 1. The Office of the Federal Defender is appointed to represent Petitioner;
- 6 2. The Clerk of Court is directed to serve a copy of this Order on Assistant
7 Federal Defender David Porter at the Office of the Federal Defender;
- 8 3. Appointed counsel shall file a notice of appearance with this Court within
9 fourteen (14) days from the date of service of this order and counsel shall
10 contact the Clerk's Office to make arrangements for copies of any relevant
11 documents.

12
13 IT IS SO ORDERED.

14 Dated: July 28, 2011

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE